

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 UNITED STATES OF AMERICA

4 v.

09 Cr. 195 (GBD)

5 JONATHAN FELIZ,

Sentence

6 Defendant.

7 -----x

8 New York, N.Y.
9 February 14, 2013
10:35 a.m.

10 Before:

11 HON. GEORGE B. DANIELS

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
17 Southern District of New York

NOLA B. HELLER

Assistant United States Attorney

18
19 CHRISTOPHER GUNTHER

Attorney for Defendant

1 (Case called)

2 MS. HELLER: Good morning, your Honor. Nola Heller
3 for the United States.

4 THE COURT: Good morning, Ms. Heller.

5 MR. GUNTHER: Good morning, your Honor. Christopher
6 Gunther on behalf of Mr. Feliz.

7 THE COURT: Good morning, Mr. Gunther. Mr. Gunther,
8 have you received a copy of the pre-sentence report and had an
9 opportunity to review it with your client?

10 MR. GUNTHER: Yes, your Honor.

11 THE COURT: Do you have any objections or corrections
12 to be made to the report itself?

13 MR. GUNTHER: No, your Honor.

14 THE COURT: Let me turn to the government. Does the
15 government wish to be heard on sentence?

16 MS. HELLER: Your Honor, the entirety of our arguments
17 are contained in our submission, which I assume your Honor
18 received. The sentence in some ways is academic unless your
19 Honor decides to go above the stipulated guidelines range. To
20 be clear, we are not asking for that. That's not what is in
21 our plea agreement.

22 However, it cannot remain unsaid, the severity of this
23 defendant's conduct. He ran a large, violent gang for a
24 significant period of time. He engaged in numerous acts of
25 violence, murder conspiracies, multiple attempted murders, ran

1 a large-scale narcotics trafficking organization, and at no
2 time has shown any remorse for his actions, as is evidenced by
3 the letter that the government attached to its sentencing
4 submission, which shows that even as the defendant was
5 preparing for his pre-sentence interview here, he was plotting
6 ways to lie to the Court to get a lesser sentence.

7 He has accepted responsibility now and he faces 30
8 years' mandatory minimum. We believe that is an appropriate
9 sentence for a man who has done significant harm to his
10 community. We believe the public needs to be protected from
11 Mr. Feliz for a significant amount of time.

12 I'll be happy to answer any questions.

13 THE COURT: Mr. Gunther?

14 MR. GUNTHER: Briefly, your Honor, the conduct in this
15 case is serious, but the minimum term of imprisonment Mr. Feliz
16 faces is very serious. The 360-month statutory minimum is well
17 in excess of the high end of the guidelines range in the
18 stipulated plea agreement.

19 The government does not disagree with us that a
20 360-month term of imprisonment is sufficient to meet the goals
21 of sentencing. The theme of my submission on Mr. Feliz's
22 behalf is that there was nothing in this case that would
23 require your Honor to consider going above the 360 minimum that
24 he faces. We would ask your Honor to impose the 360-month
25 minimum.

1 I have set forth in my submission information about
2 his personal background and letters from family members, which
3 I'm sure your Honor has read. I'm sure they also agree with
4 that theme of sticking with the minimum sentence available
5 here. Thank you, your Honor.

6 THE COURT: Mr. Feliz, is there anything you want to
7 say before I impose sentence?

8 THE DEFENDANT: Yes, your Honor. Thank you for the
9 opportunity to address you, the people of the court about my
10 actions and my regrets. Your Honor, I am not proud of what I
11 have done or what I was involved in doing. To be at this
12 juncture in my life and have accomplished little or nothing
13 makes me feel such a fool, ashamed and embarrassed.

14 I take full responsibility for my behavior and my
15 actions that have caused such grief to everyone I have wronged
16 directly or indirectly. I also admit to being responsible for
17 the suffering I have caused my family, my friends, and my
18 community, the woman who loves me and continues to stand by me
19 and who never stopped believing in me. Most importantly, all
20 of them, my kids, who are suffering the most because of the
21 choices I have made and are now living their life without the
22 nurture and love and support of their father.

23 Thank you.

24 THE COURT: I have reviewed the pre-sentence report
25 and the submissions by the defense and the government. I

1 accept the factual recitations in the pre-sentence report and
2 the guideline range as calculated and mandatory minimums that
3 apply to these counts to which the defendant pled guilty. I
4 have considered all the factors in 18 U.S.C. 3553(a) relevant
5 to sentence.

6 In this case I believe that the statutory mandatory
7 minimums with regard to these serious offenses are
8 appropriately designated and appropriate for this defendant for
9 these offenses. I am therefore going to impose on Count Two
10 the statutory mandatory minimum of 300 months, on Count One the
11 statutory mandatory minimum of 60 months, for a total of 360
12 months. I will also impose a 5-year period of supervised
13 release on each count. I also must impose the mandatory \$100
14 special assessment on each count, for a total of \$200.

15 The mandatory conditions of supervised release are
16 imposed. The defendant shall not commit another federal,
17 state, or local crime. The defendant shall not illegally
18 possess a controlled substance. The defendant shall not
19 possess a firearm or destructive device.

20 The standard conditions of supervision 1 through 13 as
21 recommended by the pre-sentence report are also imposed, with
22 the special condition that the defendant shall participate in a
23 program approved by the probation office, which program may
24 include testing to determine whether the defendant has reverted
25 to the use of or abuse of drugs or alcohol.

1 The defendant shall also submit his person, residence,
2 place of business or vehicle or any other premises under his
3 control to a search on the basis that the probation officer has
4 a reasonable belief that contraband or evidence of a violation
5 of the conditions of release may be found. The search must be
6 conducted at a reasonable time and in a reasonable manner.

7 Failure to submit to the search may be grounds for
8 revocation. The defendant shall inform any other residents of
9 the premises that the recommendations may be subject to search
10 pursuant to this condition. The defendant is to report to the
11 nearest probation office within 72 hours of his release from
12 custody.

13 Mr. Feliz, you have the right to appeal this
14 conviction and sentence. If you wish to appeal any portion of
15 this conviction or sentence, you should discuss it immediately
16 with your attorney. In order to preserve your right to appeal,
17 the notice of appeal must be filed on your behalf within 14
18 days of today's entry of judgment.

19 Anything further?

20 MS. HELLER: Your Honor, we move to dismiss the
21 underlying indictments and open counts against Mr. Feliz.

22 THE COURT: That application is granted.

23 Anything further?

24 MR. GUNTHER: Briefly, your Honor. We ask the Court
25 to consider two recommendations with regard to where Mr. Feliz

1 is designated. Both relate to his ability to get visits from
2 family, both his immediate family and his extended family.

3 First, we ask that your Honor recommend that he serve
4 his term of imprisonment at an institution as close to New York
5 City as possible. Second, your Honor just imposed sentence on
6 his brother. We ask that your Honor consider recommending that
7 the two brothers be designated to the same facility if the
8 Bureau of Prisons can accommodate that, which would facilitate
9 family visits.

10 THE COURT: With regard to the first recommendation,
11 I'm going to grant the first recommendation. With regard to
12 the second recommendation, given the serious nature of the
13 crimes here and even the potential for further criminal
14 activity and violence while the defendants are incarcerated, I
15 believe it is appropriate for the Bureau of Prisons to make
16 their determination as to whether or not it's appropriate to
17 house these individuals in the same facility. So I am not
18 going to make that recommendation. But I will make the
19 recommendation that he also be housed in a facility near the
20 New York City area.

21 That is the sentence.

22 (Adjourned)